

Amended Complaint

3:05-cv-30053-KPN McCreary v. Geoffrion, Lyons, and O'Connor

United States District Court District of Massachusetts

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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

On March 24, 2005, both Judge Marie Lyons and Attorney Nancy D. O'Connor, defendants in the above stated action, continued to deliberately violated the constitutional /civil rights of the plaintiff, Willie J. McCreary by participating in a formal civil proceeding involving Docket number 03D-1572. This, after being served legal notice by the Constables of Western Massachusetts of the pending Civil Action 3:05-cv-30053. Secondly, upon not hearing from Probate and Family Court that another judge had been assigned to the McCreary v McCreary divorce proceeding, the Plaintiff in this action (3:05-cv-30053) went to Probate and Family court on 3-22-05, and was informed he had to submit a motion of recusal regarding Judge Lyons. Plaintiff complied; however, on 3-24-05, Judge Lyons with a bemused look upon her face asked Plaintiff to explain his motion.

Plaintiff explained that Judge Lyons was aware of the civil action filed against her, that Plaintiff had received confirmation from the Constables she had been served notice of this particular civil action, further, the Plaintiff presented the notice of Appearance from Assistant Attorney General William P. O'Neil as the attorney for Judge Lyons and Judge Geoffrion. Judge Lyons then asked Attorney O'Connor for her opinion. Attorney O'Connor replied that this was a delay tactic, that Mr. McCreary was served notice, and she elucidated, "I believe Judge you have immunity." Judge Lyons refused to recuse herself. The Plaintiff protested, stating this was a conflict of interest, it was improper, and that the relationship between the Plaintiff and Defendants had now changed to one of litigants, and she, Judge Lyons, could not be impartial. Judge Lyons said, "I can be impartial." Plaintiff then said, "You are breaking the concept in due process that states no man can be a judge in his own case." Again, the Plaintiff was not being heard in this particular court, and Judge Lyons proceeded to adjudicate. There was the appearance of acting in concert by both Judge Lyons and Attorney O'Connor. Further, Attorney O'Connor spoke about my loans for my home located at 17 Daytona Street : "He has a Loan for \$68,000, and a second loan for \$12,000. Mr. McCreary says his house is worth \$97,000, but I know the neighborhood, and I believe his house, this is a two family house, Your honor, is worth \$150,000. Plaintiff was ordered to appear again in court before Judge Lyons on 3-31-05 with proof of a refinance loan and the name and telephone number of the person processing the loan or spend 120 days in Ludlow jail.

The actions taken by Judge Lyons and Attorney O'Connor should shock the conscience of the Court as their actions run counter to common sense and common decency. Further, Judge Lyons allowed Attorney O'Connor to make unfounded statements about the true value of my home without the benefit of an appraisal done by a reputable realtor. Thirdly, the Plaintiff does not recall giving this attorney any information about his home loans. They continue to violate Amendments 1, 4, 5 and 14, and Judge Lyons violated the legal concept *Nemo est supra legis* (Nobody is above the law.)

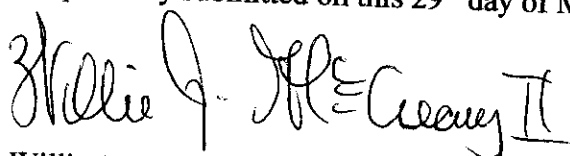
Lastly, the Plaintiff presented to the Court a Document from the Department of Revenue indicating that money was being deducted from the Plaintiff's pay (CT Department of Correction) to satisfy the owed child support. This evidence was ignored by the court and Attorney O'Connor.

In **Goldberg v Kelly**, the Supreme Court stated due process required a hearing having these requirements : (1) adequate notice, (2) an opportunity to be heard, (3) the right to present evidence, (4) confrontation of the opposing witnesses, (5) the right to cross examine those witnesses, (6) disclosure of all adverse evidence, (7) the right to an attorney if desired, a decision based solely on the evidence produced at the hearing, (9) a statement of the reasons for the decisions, (10) an impartial decision maker. The Plaintiff contends the only part of due process that was met in Family and Probate Court at 50 State Street, Springfield , Massachusetts was adequate notice, all other areas of due process were dismal failures.

The Plaintiff pray to the Court for relief as he has suffered sustained harm from the three defendants in this action. He has been deprived of his liberty, his property, and has suffered repeatedly emotional distress and mental anguish due to the deliberate and malicious violation of his constitutional rights. Both Judge Lyons and Attorney O'Connor have engaged in conflicts of interest, and gross misconduct which could and should subject Judge Lyons to removal from office, and for her part, Attorney O'Connor should be disbarred from the legal profession. Furthermore, the Plaintiff seeks remedy for the harm he has suffered due to their wanton indifference to proper procedure and their failure to take care regarding the Plaintiff rights as a citizen of the United States of America.

The Plaintiff is seeking monetary damages as follows : Judge Anne Geoffrion \$500,000, and \$50,000 punitive damages. Judge Marie Lyons \$2,000,000, and \$1,000,000 in punitive damages. Attorney Nancy D. O'Connor \$1,000,000, and \$500,000 in punitive damages.

Respectfully submitted on this 29th day of March, 2005

 Pro se
Willie J. McCreary II, Pro se